

1997

## State of Utah v. James Johnston : Addenda

Utah Court of Appeals

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Corry, Blackburn, Wayment& Hofeling; Blaine T. Hofeling; John E. Hummel; Attorney for Appellant.

J. Frederic Voros; Laura B. Dupaix; Attorney for Appellee.

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MAY 14 2002

State of Utah,  
Plaintiff and Appellee,  
  
v.  
  
James Johnston,  
Defendant and Appellant.

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**ADDENDUM**

Case No.: 971327-CA

**CORRY, BLACKBURN, WAYMENT &  
HOFELING, L.L.P.**  
Blaine T. Hofeling [6403]  
337 South Main St., 020  
Cedar City, Utah 84720  
Attorney for Appellant

J. Frederic Voros, Jr.  
Laura B. Dupaix  
Assistant Attorney General  
160 East 300 South, 6<sup>th</sup> Floor  
P.O. Box 140854  
Salt Lake City, Utah 84114-0854

John E. Hummel  
165 North 100 East, Suite #5  
St. George, Utah 84770  
Attorney for Appellant

## **ADDENDUM**

- A. FIRST NEWSPAPER ARTICLE**
- B. SECOND NEWSPAPER ARTICLE**
- C. BRANDI ROBINSON TESTIMONY R 289 PP 196-251**
- D. BRANDI ROBINSON TESTIMONY R 292 PP 137-153**
- E. ALLI KROPF TESTIMONY R 292 PP 99-119**

# Johnston's bail set at \$100,000

By Dixie Brunner

A four month Kanab, City Police Department investigation has resulted in the arrest of James Earl Kramer, alias Jim Johnston of Kanab, on charges of sodomy, aggravated sexual abuse of a child and lewdness. Kramer appeared on May 15 in Judge Pat Chavez courtroom on seven first degree felony and three misdemeanor charges with bail set at \$100,000. Kanab City Policeman Mark Fisher has been handling the investigation with County Attorney Colin Winchester prosecuting. Two juvenile girls have accused the former manager of Green Thumb Nursery, of fon-

dling them on several occasions.

Kramer has been living in Kanab under the assumed name of Jim Johnston. Similar allegations have been made by others in the past, but no prosecutions were commenced. Upon his arrest on the local charges and subsequent fingerprinting at the Kane County Jail, it was discovered that Kramer has been convicted of child molestation charges in Texas and California. Kramer was remanded to the Kane County Jail and the preliminary hearing will be set within ten days. An investigation concerning other individuals who allegedly participated in the crimes is ongoing.

# Johnston/Kramer bound over for trial

By Dixie Brunner

Jim Johnston was bound over for trial on one first degree felony charge of *sodomy of a child*, four charges of second degree felony *sexual abuse of a child* and two class A misdemeanor charges of *lewdness involving a child* at his June 11 preliminary hearing in the Kanab City Justice Court. Judge Pro Tem Kirk Heaton presided over the two day hearing, with Kane County Attorney Colin Winchester representing the state and Gary Pendleton representing the defendant.

Johnston, who's real name is James Earl Kramer, was arrested in May by the Kanab City

Police Department on charges of sodomy, aggravated sexual

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## Charges

*Continued from Page 1*

abuse of a child and lewdness. The charges involve two juvenile girls, one eight years old and one seven.

Kramer had been living in Kanab under the name of Johnston, holding a number of different jobs. Upon his arrest on the local charges and subsequent fingerprinting at the Kane County Jail, it was discovered that Kramer has

been convicted of child molestation charges in Texas and California.

Johnston was ordered to appear before the Sixth Judicial District Court at the Kane County Courthouse on July 19 at 9:00 a.m.

Since the defendant was bound over on a first degree felony charge, the \$100,000 bail set by Judge Mower remains in effect and the defendant shall remain in custody pending the posting of bail or until his appearance on July 19, 1996.

1 tape?

2 A. Yeah.

3 Q. What did she say?

4 A. That after that one video he made another  
5 one of her when she was -- had no clothes on.

6 Q. So she told you that he made a video tape of  
7 her when she didn't have any clothes on?

8 A. Yeah.

9 Q. Did you see that video tape?

10 A. No.

11 Q. When did she tell you that he made the video  
12 tape of her without any clothes on?

13 A. The next day.

14 Q. The next day after she told you about the  
15 video tape with the cats?

16 A. Yeah.

17 Q. Did he ever tell you that he made a video  
18 tape of her without any clothes on?

19 A. No.

20 Q. And you never saw it?

21 A. No.

22 Q. How long ago was it that AK told you about  
23 the video tape with no clothes on?

24 A. About -- I think it was February 19th.

25 Q. February 19th?

1           A.    Yeah.

2           Q.    Is there some reason you remember that date?

3           A.    It was the day that me and AK went to  
4 Parowan to see my grandma and I was playing at a park  
5 and I fell and hit my face.

6           Q.    So you remember that day very well?

7           A.    Yeah.

8           Q.    That's the day that she told you about it?

9           A.    Yeah.

10          Q.    Did she tell you that he had made that video  
11 tape just before that, did she say it was just before  
12 that, or did she say it was a long time before that?

13          A.    It was a day before that.

14          Q.    So she said the day before that he had made  
15 a video tape with her without any clothes on?

16          A.    Yeah.

17          Q.    Did she say anything else about the video  
18 tape?

19          A.    No.

20          Q.    When you played over there at his house --  
21 sometimes you stayed overnight, didn't you?

22          A.    We stayed over once with Gwen and Tansie.

23          Q.    You stayed over there overnight with Gwen  
24 and Tansie once?

25          A.    Three times.



1 Q. Three times?

2 A. Yeah.

3 Q. Do you know how many times all together you  
4 stayed over there?

5 A. I think it was seven.

6 Q. Seven?

7 A. Yeah.

8 Q. When you stayed over there at night did AK  
9 stay there with you?

10 A. She stayed over there three times with me.

11 Q. You stayed overnight three times with AK  
12 there with you?

13 A. Yeah.

14 Q. What kind of things did you do when you  
15 stayed overnight?

16 A. We would sometimes sleep outside or have ice  
17 cream.

18 Q. Pardon me?

19 A. Or have ice cream or--

20 Q. Sleep outside?

21 A. Yeah.

22 Q. Sometimes you would have ice cream?

23 A. Yeah.

24 Q. Anything else?

25 A. Sometimes we would sleep upstairs.

Q. Upstairs?

A. Yeah.

Q. Whose bedroom is upstairs?

A. Nobody, it's just a guest place.

Q. Who would stay upstairs?

A. Sometimes when Jim had Tansie's brothers and sisters stay over they would sleep upstairs.

Q. And that's where you stayed sometimes when you would stayed over?

A. Yeah.

Q. When you had ice cream what kind of ice cream did you have?

A. He got ice cream from the Swan's man, so it's all different kinds.

Q. Were they like ice cream bars and different things like that?

A. Yeah.

Q. It wasn't the kind ice cream you scooped up and ate it out of a bowl?

A. No.

Q. When you would stay over at Jim's house was there ever anything that he ever did that you thought was bad?

A. Yeah.

Q. What was that?

1 Q. And you?

2 A. Yeah.

3 Q. Where did you sleep at?

4 A. I slept on the floor.

5 Q. What did you sleep in?

6 A. A sleeping bag.

7 Q. He told you to sleep with all your clothes  
8 off?

9 A. Yeah, he made me.

10 Q. He made you?

11 A. Yeah.

12 Q. Did you ever have pajamas or anything to  
13 wear over there?

14 A. Yeah.

15 Q. When did you wear those?

16 A. When me and AK slept outside and upstairs  
17 and in his room.

18 Q. In his room?

19 A. Yeah.

20 Q. He told you to take your pajamas off, or did  
21 he tell you to take your clothes off?

22 A. My clothes off one time.

23 Q. One time?

24 A. Yeah.

25 Q. And when he told you to take your clothes

1 off did you put pajamas on?

2 A. No, he just told me to take my clothes off  
3 and don't put any more clothes on.

4 Q. So you didn't have any clothes on?

5 A. No.

6 Q. Did something else happen then?

7 A. Yeah.

8 Q. What happened then?

9 A. He had touched me on the wrong places.

10 Q. He would touch you where?

11 A. In the wrong places.

12 Q. Private places?

13 A. Yeah.

14 Q. And did anybody see him do that?

15 A. Tansie did.

16 Q. Tansie did?

17 A. Yeah.

18 Q. Was anybody else in the room when that  
19 happened?

20 A. AK.

21 Q. AK was in the room when that happened?

22 A. Yeah.

23 Q. Did AK see that happen?

24 A. Only once.

25 Q. Only once?

1 A. Yeah.

2 Q. Did Jim touch AK that one time?

3 A. Yeah.

4 Q. So he touched you and her?

5 A. Yeah.

6 Q. And did she have her clothes off, too?

7 A. Yeah.

8 Q. So he made both of you take your clothes off  
9 and he touched both of you?

10 A. Yeah.

11 Q. And Tansie was in the room?

12 A. Yeah.

13 Q. Was Tansie watching this?

14 A. Yeah.

15 Q. Did Tansie say anything about it?

16 A. What do you mean?

17 Q. Did she say anything to Jim about what he  
18 was doing?

19 A. No.

20 Q. Did she say anything to you about what Jim  
21 was doing?

22 A. She told me to try to run home and I did,  
23 but he grabbed me.

24 Q. She told you what?

25 A. She told me and AK to try to run down to our

1 house and put on our clothes and to run to my house,  
2 and we tried to, but Jim grabbed us.

3 MR. PENDLETON: Can I move just a little  
4 closer, your Honor?

5 THE COURT: You may. In fact, I think it  
6 will pick you up in the jury box if you want to put  
7 the chair there.

8 Q. BY MR. PENDLETON: Let me move a little  
9 closer because I'm getting old and my ears are not as  
10 good as they used to be, okay?

11 A. Okay.

12 THE COURT: Is that okay with you if he  
13 moves over there?

14 THE WITNESS: Yeah.

15 Q. BY MR. PENDLETON: You've said that Tansie  
16 told you to do what?

17 A. She told me and AK to try to put on our  
18 clothes and try to run to my house, and we tried, but  
19 Jim grabbed us.

20 Q. So when she saw what Jim was doing and saw  
21 Jim touching you guys she told you to try to get your  
22 clothes on and run away?

23 A. Yeah.

24 Q. And you tried to but Jim grabbed you?

25 A. Yeah.

1 Q. Then what happened?

2 A. Tansie tried to get us away from Jim, but  
3 Jim hit Tansie.

4 Q. So then Tansie tried to rescue you from Jim?

5 A. Yeah.

6 Q. And Jim hit her?

7 A. Yeah.

8 Q. Where did he hit her?

9 A. He punched her right in the nose.

10 Q. He punched her in the nose?

11 A. Yeah.

12 Q. So then what happened?

13 A. When he let go to punch her in the nose he  
14 used both hands, and me and AK got away.

15 Q. So did AK see this happen, too?

16 A. Yeah.

17 Q. So when he punched her in the nose he  
18 punched her with two hands?

19 A. He punched her in the nose and in the mouth.

20 Q. He punched her in the nose and in the mouth?

21 A. Yeah.

22 Q. With one hand at one time?

23 A. No, he went like that.

24 Q. So hit her on the nose with one hand and the  
25 mouth with the other hand?

1 off?

2 A. Yeah.

3 Q. Did you tell her about Jim hitting Tansie?

4 A. Yeah.

5 Q. So did you think Tansie was trying to save  
6 you?

7 A. Yeah.

8 Q. Is that why she did that and told you to  
9 run?

10 A. Yeah.

11 Q. Do you know what she was trying to save you  
12 from?

13 A. Jim hurting us.

14 Q. Jim hurting you?

15 A. Yeah.

16 Q. Was there ever another time when Jim did  
17 something bad?

18 A. Yes.

19 Q. When was that?

20 A. About three weeks later.

21 Q. About three weeks later?

22 A. Yeah.

23 Q. What did he do that time?

24 A. He made us touch him in his private places.

25 Q. Who do you mean when you say "us?"



1 A. Me and AK.

2 Q. So both of you were there?

3 A. Yeah.

4 Q. And he made both of you touch his him in his  
5 private places?

6 A. Yeah.

7 Q. Was Tansie there, too?

8 A. No.

9 Q. Just you and AK and him?

10 A. Yeah.

11 Q. Do you know where everybody else was?

12 A. Tansie was swimming with her friends and  
13 Gwen.

14 Q. Did they have a swimming pool at the  
15 doctor's?

16 A. No, it was at Crazy Horse Campground.

17 Q. So she was down to Crazy Horse Campground?

18 A. Yeah.

19 Q. Were you at the campground, too?

20 A. I went to swim there with Tansie and Gwen  
21 sometimes, me and AK.

22 Q. Now the time that Jim made you and AK touch  
23 his privates?

24 A. Yeah.

25 Q. Was Tansie swimming at the Crazy Horse

1       Campground then?

2           A.    Yeah.

3           Q.    Is that where you were when Jim said that --  
4       when he made you touch him?

5           A.    No.

6           Q.    You were back at his house?

7           A.    Yeah.

8           Q.    Do you know how Tansie got to the Crazy  
9       Horse Campground?

10          A.    She drove Jim's car.

11          Q.    So she was swimming?

12          A.    Yeah.

13          Q.    That would have been last summer?

14          A.    Yeah.

15          Q.    Would it have been during the summer when it  
16       was warm?

17          A.    Yeah.

18          Q.    Did they have an indoor swimming pool at  
19       Crazy Horse Campground?

20          A.    No, they have an outdoor swimming pool.

21          Q.    So this would have been what, last summer  
22       sometime?

23          A.    Yeah.

24          Q.    While she was gone to the Crazy Horse  
25       Campground swimming, Jim made you and AK touch his

1 privates?

2 A. Yeah.

3 Q. Where were you in the house at that -- were  
4 you in his house when that happened?

5 A. Yeah.

6 Q. Do you know it's very important for you to  
7 tell me the truth and not to just tell me something  
8 you think I want to hear; you know that, don't you?

9 A. Yeah.

10 Q. Make sure that whatever you tell me is the  
11 truth, okay?

12 A. Okay.

13 Q. You and him and AK were the only ones at his  
14 house, then?

15 A. Yeah.

16 Q. What happened?

17 A. He made us touch him in his private parts.

18 Q. Do you know what room you were in?

19 A. We were in his room.

20 Q. His room?

21 A. Yeah.

22 Q. Did you have your clothes on?

23 A. Me and AK did, but he didn't.

24 Q. So he had all of his clothes off?

25 A. Yeah.

1           Q.    Did he take his clothes off while you were  
2           in the room with him?

3           A.    No, he took his clothes off then while we  
4           were playing Scramble, and then he made us touch him  
5           in his private parts.

6           Q.    So he went into his room and took his  
7           clothes off, and then he told you to come in his room?

8           A.    Yeah.

9           Q.    So then you were playing the video game,  
10          Scramble?

11          A.    Yeah.

12          Q.    On the computer?

13          A.    Yeah.

14          Q.    And then he said, "Come into my bedroom"?

15          A.    Yeah, he pulled us in there.

16          Q.    So he came out and -- did he grab both of  
17          you?

18          A.    Yeah.

19          Q.    Did he take you into the bedroom?

20          A.    Yeah.

21          Q.    Then he said, "Touch my privates," or what  
22          did he say?

23          A.    He put our hands on his privates.

24          Q.    Did he reach over and take your arms and  
25          made your hands touch his privates?

1 A. Yeah.

2 Q. Then what did he do?

3 A. After he was done he would take us out of --  
4 he would go out of his room and tell us to play  
5 Scramble and he would go get everybody an ice cream.

6 Q. And he would go get everybody an ice cream?

7 A. Yeah, out of his freezer.

8 Q. Did he tell you that if you would touch his  
9 privates he would give you an ice cream?

10 A. Yeah.

11 Q. Did he tell you that you had to do that or  
12 else he wouldn't give you an ice cream?

13 A. Yeah.

14 Q. How long did he make you touch his privates?

15 A. For about a half an hour.

16 Q. Did he do anything while you were touching  
17 his privates?

18 A. No.

19 Q. Did he touch you?

20 A. No.

21 Q. Did he touch AK?

22 A. No.

23 Q. Did he make both of you touch him at the  
24 same time?

25 A. One at a time.

1 Q. One at a time?

2 A. Uh-huh.

3 Q. Did he make you touch his private with  
4 anything except your hand?

5 A. With a vibrator.

6 Q. So he would make you touch his privates with  
7 a vibrator?

8 A. Yeah.

9 Q. Have you seen a vibrator before?

10 A. Yeah.

11 Q. Where have you seen that?

12 A. He showed it to us the first day we went  
13 over, Dr. Aitken did.

14 Q. Dr. Aitken showed you the vibrator?

15 A. Yeah.

16 Q. Why did he show you the vibrator?

17 A. He asked AK to use it to rub his back.

18 Q. To rub Dr. Aitken's back?

19 A. Yeah.

20 Q. Did she do that?

21 A. Yeah.

22 Q. Did you know how to turn it on and off?

23 A. Yeah, there's a switch.

24 Q. Did you ever use it to rub Dr. Aitken's  
25 back?

- 1           A.     Only once.
- 2           Q.     Only once?
- 3           A.     Yeah.
- 4           Q.     Did Dr. Aitken ever do anything bad?
- 5           A.     No.
- 6           Q.     He never did?
- 7           A.     No.
- 8           Q.     Did he ever rub your back with the vibrator?
- 9           A.     No.
- 10          Q.     Did AK ever rub your back with the vibrator?
- 11          A.     Once.
- 12          Q.     Did she ever rub your head or anything like
- 13          that with the vibrator?
- 14          A.     No.
- 15          Q.     Just your back?
- 16          A.     Uh-huh.
- 17          Q.     Did anybody else ever rub you with the
- 18          vibrator?
- 19          A.     Jim did.
- 20          Q.     When was that?
- 21          A.     The day he made me and AK take our clothes
- 22          off.
- 23          Q.     The same day?
- 24          A.     Yeah.
- 25          Q.     Is that the day that Tansie was out swimming

1 at Crazy Horse Campground?

2 A. Yeah.

3 Q. Or is that the day that Tansie rescued you  
4 and Jim hit her in the face; do you remember?

5 A. It was the day she was swimming at Crazy  
6 Horse Campground.

7 Q. It was the day she was at the campground?

8 A. Yeah.

9 Q. I thought that that day you didn't take your  
10 clothes off.

11 A. We didn't, he just rubbed it with us with  
12 our clothes on.

13 Q. So it wasn't the day that you took your  
14 clothes off?

15 A. Huh-uh.

16 Q. It was the day that he made you touch his  
17 privates?

18 A. Yeah.

19 Q. But did you ever take your clothes off on  
20 that day?

21 A. No.

22 Q. Was there ever any other time that he rubbed  
23 you with the vibrator?

24 A. No.

25 Q. Just that one time?



1           A.    Yeah.

2           Q.    So that would have been maybe last summer  
3 when it was still warm?

4           A.    Yeah.

5           Q.    Are you getting tired?

6           A.    Yeah.

7           Q.    Do you want to get up and maybe stretch a  
8 little bit so you don't start saying "yes" just  
9 because you're tired?

10          A.    Okay.

11               MR. PENDLETON:  Should we take a little  
12 recess, your Honor?

13               THE COURT:  You can (inaudible).  Do you  
14 need a drink of water or something like that.

15               THE WITNESS:  Right there.

16               THE COURT:  You've got some.  Let's take a  
17 little brief recess and we'll (inaudible).

18               (Short recess taken)

19               THE COURT:  We're back on the record?

20               COURT CLERK:  Yes.

21               THE COURT:  And the record should reflect  
22 that counsel for both the State and the defendant are  
23 still present, as is Officer Robertson, the court  
24 clerk, the judge and BR, and she's been talking from  
25 the stand and we just took a short break and she'll be

1     testifying again.

2             You may proceed, Mr. Pendleton.

3             Q.     BY MR. PENDLETON:  BR, I understand that  
4     there was one time when Jim made you and AK take your  
5     clothes off, and Tansie was there?

6             A.     Yeah.

7             Q.     She told you guys to get your clothes on and  
8     run and then he hit her, but you guys got away and ran  
9     away?

10            A.     We tried to.  He grabbed us, and then he hit  
11     Tansie in the nose and the mouth and then we got away.

12            Q.     So when he was hitting Tansie, that's when  
13     you got away?

14            A.     Yeah.

15            Q.     Was there another time when he made you take  
16     your clothes off?

17            A.     No.

18            Q.     Just that one time?

19            A.     Yeah.

20            Q.     Was there ever a time when he made you take  
21     your clothes off by yourself when AK wasn't there?

22            A.     Once.

23            Q.     When was that?  Was that when you were  
24     sleeping over there?

25            A.     Yeah.

1           Q.    And then there was another time when AK and  
2   you were both there and Tansie wasn't there and he  
3   used the vibrator or made you use the vibrator on him,  
4   right?

5           A.    Yeah.

6           Q.    That was the time when he made you touch his  
7   privates?

8           A.    Yeah.

9           Q.    Did you ever see his privates on any other  
10   day other than that day?

11          A.    When I would spend the night because he  
12   sleeps with no clothes on.

13          Q.    You would spend the night and what?

14          A.    He sleeps with no clothes on.

15          Q.    He sleeps with no clothes on?

16          A.    Yeah.

17          Q.    Did he ever make you touch his privates on  
18   any other day other than the time when he made you  
19   touch it with the vibrator?

20          A.    No.

21          Q.    So when you stayed over there at nights when  
22   you saw him going to bed with no clothes on, he never  
23   made you touch his privates then?

24          A.    No.

25          Q.    Are you sure?

1           A.    Yeah.

2           Q.    Did he ever make you do anything else with  
3 his privates that time that he made you touch it with  
4 the vibrator? Did he make you do anything else?

5           A.    No.

6           Q.    Did you ever do anything else with his  
7 privates other than touch it with your hand?

8           A.    No.

9           Q.    You touched it with the vibrator, though,  
10 didn't you?

11          A.    Yeah.

12          Q.    But that was the same day that you touched  
13 it with your hand?

14          A.    Yeah.

15          Q.    Did he ever ask you to do anything else with  
16 his privates?

17          A.    Yeah, me and AK didn't do it.

18          Q.    What did he ask you to do?

19          A.    He asked us to suck it.

20          Q.    To suck it?

21          A.    Yeah.

22          Q.    Was that the same day that he had you touch  
23 it with the vibrator?

24          A.    No.

25          Q.    That was a different day?

1           A.    Yeah.

2           Q.    Did you (inaudible) the day that he asked  
3 you to suck it?

4           A.    Yeah.

5           Q.    So there was another time that you saw it  
6 (inaudible) that you saw you and he had you touch it  
7 and put the vibrator on it; is that right?

8           A.    Yeah.

9           Q.    And then there was another time when you saw  
10 it and he asked you to suck it?

11          A.    Yeah.

12          Q.    Who was there then that time?

13          A.    Tansie, Jim, Gwen and AK.

14          Q.    Who was in the room when he asked you to?

15          A.    Jim and--

16          Q.    Who, pardon me?

17          A.    Jim and Tansie.

18          Q.    Jim and Tansie were in the room and AK was  
19 there with you, too?

20          A.    Yeah.

21          Q.    And he asked you girls to suck it?

22          A.    Yeah.

23          Q.    Did Tansie hear him say that to you?

24          A.    She heard him say it to AK.

25          Q.    What did Tansie do when she heard him say

1       that?

2           A.    She didn't care that time.

3           Q.    She didn't care that time?

4           A.    No.

5           Q.    Was that after the time when he hit her in  
6       the mouth and in the nose?

7           A.    Yeah, it was a week after.

8           Q.    So sometime after he hit her in the mouth  
9       and the nose then there was another time that you were  
10      over there and he asked you to suck his privates and  
11      she didn't care that time?

12          A.    Yeah.

13          Q.    Did she say anything when she heard him ask  
14      AK to suck his privates?

15          A.    No.

16          Q.    She didn't?

17          A.    Huh-uh.

18          Q.    She didn't say anything at all?

19          A.    No.

20          Q.    Did you ever see Jim do anything with Tansie  
21      bad?

22          A.    Yeah,

23          Q.    What did you see him do with her?

24          A.    He would touch her in the wrong places.

25          Q.    Where was he, were they in bed then?

- 1           A.    No, they were upstairs.
- 2           Q.    They were upstairs in the guest room?
- 3           A.    Yeah.
- 4           Q.    Who else was up there?
- 5           A.    Just me, Jim and Tansie.
- 6           Q.    Were you staying over at night when that
- 7 happened?
- 8           A.    No, it was in the daytime.
- 9           Q.    It was in the daytime?
- 10          A.    Yeah.
- 11          Q.    Did he know you were upstairs watching?
- 12          A.    Yeah, he told me to go up there.
- 13          Q.    Who told you to?
- 14          A.    Jim.
- 15          Q.    He told you to go upstairs and then him and
- 16 Tansie went up there and then he touched her in her
- 17 private places?
- 18          A.    Yeah.
- 19          Q.    Did AK see that?
- 20          A.    No.
- 21                THE COURT:  The power went off.
- 22          Q.    BY MR. PENDLETON:  Did that scare you?
- 23          A.    No.
- 24          Q.    That scared me.
- 25          A.    I like the dark.

1 Q. You like the dark?

2 THE COURT: Let's wait until those lights  
3 come on, BR.

4 MR. PENDLETON: Do we have power yet?

5 THE COURT: We're back on.

6 Q. BY MR. PENDLETON: So the time that you saw  
7 him upstairs touching Tansie, did he -- do you know  
8 what making love means?

9 A. No.

10 Q. Do you know what having intercourse means or  
11 having sex?

12 A. No.

13 Q. What did Jim do with Tansie when you were  
14 upstairs and saw him?

15 A. He touched her with the vibrator and he  
16 touched her in the wrong places.

17 Q. So he was running the vibrator on her?

18 A. Yeah.

19 Q. Did he run it on her back?

20 A. No.

21 Q. He never did it on the back?

22 A. No.

23 Q. Did he ever do it on her arm?

24 A. No.

25 Q. Pardon me?



1 A. No.

2 Q. He just did it on her privates?

3 A. Yeah.

4 Q. And no other place?

5 A. Her privates and her head.

6 Q. Her head?

7 A. Yeah.

8 Q. So he was running the vibrator on her head?

9 A. Yeah.

10 Q. Did she have her clothes on?

11 A. No.

12 Q. None? She had all of her clothes off?

13 A. Yeah.

14 Q. Did Jim have his clothes on?

15 A. Yeah.

16 Q. Yes, he did?

17 A. Yeah.

18 Q. Did you ever see Tansie do anything nasty to  
19 him?

20 A. No.

21 Q. Did you ever see her rub his arms or  
22 shoulders with the vibrator?

23 A. No.

24 Q. You never did?

25 A. No.

1 Q. Did Tansie ever do anything bad with you or

2 AK?

3 A. Once.

4 Q. Once? What did she do?

5 A. She touched us in the wrong places.

6 Q. In the wrong places?

7 A. Yeah.

8 Q. What place is that?

9 A. Our private places.

10 Q. Between your legs?

11 A. Yeah.

12 Q. What did she touch you with?

13 A. Her hand and the vibrator.

14 Q. Her hand and the vibrator?

15 A. Yeah.

16 Q. Was Jim around when that happened?

17 A. No.

18 Q. He was nowhere around?

19 A. No.

20 Q. When Tansie touched you with the vibrator  
21 and her hand was that before or after the time when  
22 she told you to get your clothes on and run?

23 A. Five weeks after that.

24 Q. It was five weeks after that?

25 A. Yeah.

1           Q.    Is there some reason you know it was five  
2 weeks?

3           A.    Because it was a day when I was going  
4 upstairs, I fell and hit my head.

5           Q.    You what?

6           A.    Fell and hit my head.

7           Q.    Over in Parowan?

8           A.    No, at Tansie's house.

9           Q.    So you remember that day?

10          A.    Yeah.

11          Q.    How did you fall and hit your head?

12          A.    I was going up a step and I tripped over  
13 one.

14          Q.    Did you say anything to Jim or Tansie about  
15 hurting your head?

16          A.    I did, but Tansie or Jim didn't care.

17          Q.    Jim and Tansie didn't care about it?

18          A.    No.

19          Q.    But you remember that day?

20          A.    Yeah.

21          Q.    Did you ever keep a diary or anything?

22          A.    Yeah.

23          Q.    Did you ever write anything in there about  
24 Jim or Tansie?

25          A.    No.

1 Q. Do you remember the day when you told your  
2 mom about Jim doing something to you?

3 A. My sister told her.

4 Q. Mandy told her?

5 A. Yeah.

6 Q. So had you told Mandy about something other  
7 than -- let's see, you said that you told Mandy about  
8 something that Jim had done. Do you remember what it  
9 was that you told her he had done?

10 A. Hit Tansie on the nose and mouth.

11 Q. So after Jim had asked you to take your  
12 clothes off, and then Tansie told you to get your  
13 clothes on and to run home, and then Jim grabbed you  
14 and then he hit Tansie and then you got away?

15 A. Yeah.

16 Q. You went home and then you told Mandy about  
17 that?

18 A. Yeah.

19 Q. Did you tell Mandy about anything else, or  
20 just that?

21 A. The last day he did something to me and--

22 Q. Pardon me?

23 A. The last day he did something to me and AK  
24 and I told my sister everything that he did and stuff  
25 since he hurt Tansie.

1 Q. So he hurt Tansie and so you were mad at  
2 him?

3 A. Yeah.

4 Q. So that's when you went and told Mandy all  
5 the stuff that he had done?

6 A. Yeah.

7 Q. So the time that he hurt Tansie, was that  
8 the very last time that he ever did anything bad to  
9 you?

10 A. No, that was the first day. On the last day  
11 I told my sister what he did to me and AK and Tansie  
12 since that day after that day.

13 Q. How come you waited to tell your sister  
14 about it?

15 A. Because she was out of town and my mom was  
16 at work and so was my dad.

17 Q. Was your dad working in town at that time or  
18 was he over in Cedar City?

19 A. He was over in Cedar City.

20 Q. How long had he been in Cedar City when you  
21 told Mandy about it?

22 A. About two weeks.

23 Q. And Mandy had been out of town? Where had  
24 she been?

25 A. To Lagoon.

1 Q. To Lagoon?

2 A. And Wet and Wild.

3 Q. And Wet and Wild in Las Vegas?

4 A. Yeah.

5 Q. So how long was she gone down there?

6 A. For about three weeks.

7 Q. She wasn't just at Wet and Wild that whole  
8 time, was she?

9 A. No, she was shopping and stuff.

10 Q. So she was gone for some time, and then when  
11 she got back you told her all about all that he had  
12 done?

13 A. Yeah.

14 Q. And you told her because he had hurt Tansie?

15 A. Yeah.

16 Q. So what did you tell Mandy that he had done?

17 A. That he was touching me, AK and Tansie in  
18 the wrong places and that he hit Tansie.

19 Q. Did you tell Mandy anything else?

20 A. Just stuff that he did the days after that.

21 Q. The vibrator, did you tell her about that?

22 A. Yeah.

23 Q. How old is Mandy?

24 A. Seventeen.

25 Q. So what did Mandy do?

1           A.    She told my mom.

2           Q.    She told your mom?  Then what happened?

3           A.    My mom told the police.

4           Q.    Your mom told the police?

5           A.    And my mom told AK's grandma, then AK's  
6 grandma told her mom, and then her mom told the  
7 police.

8           Q.    So did you know that Jim had done bad things  
9 to AK?

10          A.    Yeah.

11          Q.    Your mom told her grandma?

12          A.    Yeah.

13          Q.    Had AK ever told you that he did bad things  
14 to her?

15          A.    Yeah.

16          Q.    Have you told AK that he had done bad things  
17 to you?

18          A.    Yeah.

19          Q.    Did you tell AK that before you told Mandy  
20 about it?

21          A.    No.

22          Q.    When did you first tell AK that Jim had done  
23 bad things to you?

24          A.    Right after I told my sister.

25          Q.    And you had never told her before?

1           A.    Huh-uh.

2           Q.    But she was there when he did some bad  
3 things to you, wasn't she?

4           A.    Yeah.

5           Q.    So she knew about those things?

6           A.    Yeah.

7           Q.    What things didn't she know about?

8           A.    When I was upstairs and Jim was touching  
9 Tansie in the wrong places.

10          Q.    So she didn't know about that time?

11          A.    No.

12          Q.    That's the only one she didn't know about?

13          A.    Yeah.

14          Q.    That time that you were upstairs and Jim was  
15 touching Tansie in the wrong places, did he ever touch  
16 you that day?

17          A.    No.

18          Q.    The time that he asked you to suck his  
19 privates, do you remember that time?

20          A.    Yeah.

21          Q.    And AK was there then?

22          A.    Yeah.

23          Q.    Did he have his clothes on?

24          A.    Yeah.

25          Q.    Did you ever suck his privates?



- 1 A. No.
- 2 Q. Did AK?
- 3 A. Yeah.
- 4 Q. When did she?
- 5 A. The day he asked her to.
- 6 Q. Were you there when that happened?
- 7 A. Yeah.
- 8 Q. So you saw that?
- 9 A. Yeah.
- 10 Q. But nobody else was around, or was that the
- 11 day that Tansie was there and Tansie heard him--
- 12 A. Yes.
- 13 Q. I don't want to confuse you because I'm a
- 14 little confused.
- 15 A. I know.
- 16 Q. Let me see if I can get you unconfused,
- 17 okay? Tansie was there because she heard Jim ask AK
- 18 to suck his privates, right?
- 19 A. Yeah.
- 20 Q. So did she see AK suck his privates?
- 21 A. Yeah.
- 22 Q. Where were you guys when that happened?
- 23 A. In his room.
- 24 Q. And Jim and Tansie were present?
- 25 A. Yeah.

1 Q. Do you know if it was day or night?

2 A. It was day.

3 Q. It was daytime?

4 A. Yeah.

5 Q. Was that the only time that she ever sucked  
6 his privates?

7 A. What?

8 Q. Was that the only time she ever sucked his  
9 privates, just that one time?

10 A. Yeah.

11 Q. And you never did ever?

12 A. No.

13 Q. What did your mom say to you when -- after  
14 Mandy told her what you had said? Did your mom come  
15 and talk to you?

16 A. Yeah.

17 Q. What did your mom say to you when she --  
18 after your sister talked to her; do you remember?

19 A. She asked me why I didn't tell her.

20 Q. What did you say?

21 A. I was scared that I would get in trouble.

22 Q. Did somebody tell you that you would get in  
23 trouble?

24 A. Jim did.

25 Q. What did he say?

1           A.    "If you tell your mom or your dad you'll get  
2   in trouble."

3           Q.    You'll get in trouble?

4           A.    Yeah.

5           Q.    Did your mom ask you what Jim had done?

6           A.    Yeah.

7           Q.    And did you tell her again all the things  
8   that you had told Mandy?

9           A.    Yeah.

10          Q.    Did your mom ever ask you about watching  
11   video tapes over there?

12          A.    Yeah.

13          Q.    What did she ask you about watching video  
14   tapes over at his house?

15          A.    Oopsies.

16          Q.    Did you spill?

17          A.    Yeah.

18          Q.    Do you need some paper towels?

19          A.    Uh-huh.

20                THE COURT:  I think there's some napkins or  
21   paper towels (inaudible).  Do you need some more  
22   water?

23                THE WITNESS:  Yeah.

24                THE COURT:  Why don't we take a brief recess  
25   so we can get some water.

1 (Short recess taken)

2 THE COURT: We're back on the record. We've  
3 taken a brief recess. Those present are still the two  
4 attorneys, the bailiff, the clerk, the Court and BR.

5 You may proceed.

6 Q. BY MR. PENDLETON: Okay, BR, I've just got a  
7 few more questions for you. Do you remember a time  
8 that somebody was chasing somebody around the house  
9 with the vibrator?

10 A. Jim was chasing AK around the house  
11 (inaudible).

12 Q. Jim was chasing AK with the vibrator?

13 A. Yeah.

14 Q. And were you there when that happened?

15 A. Yeah.

16 Q. Do you remember what happened then?

17 A. He caught her and he used the vibrator on  
18 her private part with her clothes on.

19 Q. Didn't that really happen to you, though,  
20 instead of AK?

21 A. It happened to both of us.

22 Q. He chased you around the house, too, with  
23 the vibrator?

24 A. Yeah.

25 Q. Was AK there and watched that?

1           A.    Yeah.

2           Q.    He caught you, too, and -- was that the same  
3           date that we were talking about before when he used  
4           the vibrator?

5           A.    No.

6           Q.    That was a different date?

7           A.    A different day.

8           Q.    Who was there?

9           A.    Jim and Tansie and AK and me.

10          Q.    So all four of you were there?

11          A.    Yeah.

12          Q.    Was that during the daytime or during the  
13          nighttime?

14          A.    Daytime.

15          Q.    And was it the same day that he chased you,  
16          was that the same day that he also chased AK?

17          A.    No.

18          Q.    It was a different day?

19          A.    Yeah.

20          Q.    Was it kind of a game?

21          A.    No.

22          Q.    Was it scary?

23          A.    Yeah.

24          Q.    Did he have the vibrator running?

25          A.    Yeah.

1 Q. Did it make a noise?

2 A. Yeah.

3 Q. So he would chase you around with it and it  
4 was vibrating and making a humming noise?

5 A. It sounded like a bee.

6 Q. It sounded like a bee?

7 A. Yeah.

8 Q. Was it scary or was it kind of a game?

9 A. It was scary.

10 Q. But you're kind of smiling, too. Was it  
11 kind of a game?

12 A. No.

13 Q. It wasn't? Was it scary?

14 A. Uh-huh.

15 Q. And then he would catch you and then he  
16 would touch you guys with it?

17 A. Yeah.

18 Q. Did Tansie say anything about that?

19 A. No.

20 Q. Did she see it happen?

21 A. She was in the shower.

22 Q. She was in the shower at that time?

23 A. Yeah.

24 Q. Both times?

25 A. She saw AK.

1 Q. She saw it when he caught AK?

2 A. Yeah.

3 Q. But she didn't see him chasing you, she was  
4 in the shower?

5 A. No.

6 Q. Was she in the shower when he chased you?

7 A. Yeah.

8 Q. Do you remember going fishing with Jim?

9 A. Yeah.

10 Q. How many times have you gone fishing with  
11 Jim?

12 A. Once.

13 Q. Where did you go?

14 A. We went -- I don't know what it's called.

15 Q. Is wasn't down at Lake Powell, was it?

16 A. No.

17 Q. Was it a smaller fishing place?

18 A. It was like a stream.

19 Q. A stream?

20 A. Yeah.

21 Q. Who went fishing with you?

22 A. Me, AK, Tansie, Tommy and Jim.

23 Q. Did you have to drive a long ways?

24 THE COURT: I think we're all (inaudible).

25 The record should reflect that the participants are

1 yawning, I guess.

2 Q. BY MR. PENDLETON: Did you have to drive a  
3 long ways to get there to fish?

4 A. Kind of.

5 Q. Did you all go in one car together?

6 A. Yeah.

7 Q. Was that last summer?

8 A. It was in the winter.

9 Q. It was in the winter?

10 A. Yeah.

11 Q. Just this last winter?

12 A. Yeah.

13 Q. Was it really cold outside?

14 A. No, it was like two months until summer.

15 Q. So was it in the fall Was it before  
16 Christmas?

17 A. Yeah.

18 Q. Maybe it was last fall?

19 A. Yeah.

20 Q. You slept over at Jim's house that time?

21 A. Yeah.

22 Q. Did you sleep over at his house before you  
23 went fishing or when you got back from fishing?

24 A. Before we went fishing.

25 Q. So you stayed over there the night before?



1 A. Yeah.

2 Q. Did anything bad happen that night?

3 A. No.

4 Q. He had you take a pill, though?

5 A. Yeah, it was a yellow pill.

6 Q. A yellow pill?

7 A. Yeah.

8 Q. Was it a kind of pill that you could chew?

9 A. No, you just had to swallow it.

10 Q. Did he tell you you could chew it?

11 A. No.

12 Q. Do you remember him telling AK that you  
13 could chew it if you wanted to?

14 A. Yeah.

15 Q. But you didn't chew it?

16 A. He didn't tell me I could.

17 Q. He didn't tell you you could, but he told <sup>her</sup>  
18 she could?

19 A. Yeah.

20 Q. Did he give you the same kind of pill?

21 A. Yeah.

22 Q. Do you know what it tasted like?

23 A. It tasted like nothing.

24 Q. Like nothing?

25 A. Uh-huh, a normal.

1           Q.    Is that because you put it in your mouth and  
2           swallowed it before you could taste it?

3           A.    Yeah.

4           Q.    Do you know if AK chewed hers?

5           A.    No.

6           Q.    Pardon me?

7           A.    No.

8           Q.    You don't know?

9           A.    Huh-uh.

10          Q.    Did Jim tell you what the pill was for?

11          A.    To make us awake in the morning and it  
12          didn't.

13          Q.    To make you wide awake in the morning and it  
14          didn't?

15          A.    Huh-uh.

16          Q.    So in the morning you still weren't wide  
17          awake?

18          A.    It made us sleepy (inaudible) until 10:30  
19          and then it made us dizzy and we had to throw up all  
20          the time.

21          Q.    You what?

22          A.    Had to throw up all the time.

23          Q.    So you got sick the next day?

24          A.    Yeah.

25          Q.    Did you ever tell anybody before that you

1 got sick?

2 A. My sister.

3 Q. So that next morning you had to drive to go  
4 fishing, right?

5 A. Yeah.

6 Q. Did you get sick when you were in the car?

7 A. We got sick as soon as we woke up.

8 Q. Both of you?

9 A. Yeah.

10 Q. Were both of you throwing up?

11 A. Yeah.

12 Q. Did you throw up when you were driving in  
13 the car?

14 A. No.

15 Q. You told somebody about that pill, didn't  
16 you?

17 A. Yeah.

18 Q. Who did you tell?

19 A. My sister.

20 Q. Did you ever tell your mom about it, too?

21 A. Yeah.

22 Q. Why did you think that pill was important?

23 A. I don't know.

24 Q. Did your mom ask you about it and say  
25 something about it?

1           A.    Yeah.

2           Q.    What did she say about it?

3           A.    She said, "What did it look like?" And I  
4 told her it was yellow.

5           Q.    Was this the day that your sister told your  
6 mom about the bad things Jim had done that you were  
7 talking about the pill?

8           A.    Yeah.

9           Q.    Did you talk about the pill with your mom  
10 before that day?

11          A.    Yeah.

12          Q.    When had you talked to your mom about that  
13 pill?

14          A.    The time after we got home from fishing.

15          Q.    So after you got home from fishing you told  
16 your mom about it that day?

17          A.    Uh-huh.

18          Q.    Did your mom say anything to you about that  
19 pill other than asking you what it looked like?

20          A.    No.

21          Q.    Did your mom ask you about that pill again  
22 after Mandy told her that Jim had been doing things,  
23 did your mom ask you about the pill again?

24          A.    No.

25          Q.    Nobody ever mentioned it again until you

1       were interviewed by Mr. Soderquist?

2           A.     Randy Soderquist, yeah.

3           Q.     Did your mom tell you what was going to  
4       happen to Jim?

5           A.     She didn't know.

6           Q.     Did (inaudible)?

7           A.     Yeah.

8           Q.     Who told you what was going to happen to  
9       Jim?

10          A.     AK's grandma.

11          Q.     What did she say?

12          A.     She said that he would probably get put in  
13       jail.

14          Q.     Did she say anything else?

15          A.     No.

16          Q.     Did she say anything about money or anything  
17       like that?

18          A.     No.

19          Q.     She didn't say anything?

20          A.     Huh-uh.

21          Q.     Do you know when you talked to your mom and  
22       AK's grandma about this, did you tell them about the  
23       video tapes over at Jim's house?

24          A.     AK told her grandma and I told my mom.

25          Q.     What did you say about the video tapes at

1 Jim's house?

2 A. I said that he made a video tape of AK and  
3 she was naked and one when she was playing with cats  
4 outside.

5 Q. Did you tell them anything else about the  
6 video tapes over there?

7 A. No.

8 Q. Did you tell them that you had watched any  
9 bad video tapes or nasty video tapes over there?

10 A. No.

11 Q. Do you know that day that you went over to  
12 Cedar City to see SueAnn Miles to talk to her?

13 A. Yeah.

14 Q. Do you remember riding over there with your  
15 mom and with AK's grandma and with AK?

16 A. Yeah.

17 Q. Did you talk about Jim on the way over  
18 there?

19 A. No.

20 Q. You didn't talk about it at all?

21 A. No, we sang songs.

22 Q. Did anybody say anything to you about  
23 anything that Jim had done to you when you were  
24 driving over there?

25 A. No.

1 Q. Pardon me?

2 A. No.

3 Q. Nobody said anything at all?

4 A. Huh-uh.

5 Q. Did you talk about the vibrator at all when  
6 you were driving over there?

7 A. No.

8 Q. Somebody didn't tell you that it was  
9 important that you not talk about that?

10 A. My mom did.

11 Q. What did she say?

12 A. If we plan our stories it might mess up the  
13 case.

14 Q. She said what?

15 A. If we plan our stories it might mess up the  
16 case.

17 Q. If you plan your stories?

18 A. Yeah.

19 Q. What did she say about that?

20 A. What do you mean?

21 Q. She said if you plan your stories it might  
22 mess up the case?

23 A. Yeah.

24 Q. So she said just to tell the truth?

25 A. Yeah.

1           Q.    But she said you couldn't talk about the  
2 case?

3           A.    No -- yeah.

4           Q.    Do you remember (inaudible) when she told  
5 you that?

6           A.    When we got to -- when we (inaudible) out of  
7 town.

8           Q.    And you were driving over to see SueAnn  
9 Miles in Cedar?

10          A.    Yeah.

11          Q.    Huh?

12          A.    Yeah.

13          Q.    And she said, "We better not talk about  
14 this, it might mess up the case"?

15          A.    Yeah.

16               MR. PENDLETON:  I don't think I have any  
17 more questions.

18               THE COURT:  Redirect, Mr. Winchester?

19               BR, Mr. Winchester may have a few questions  
20 for you, okay?

21               MR. WINCHESTER:  I just have a couple.

22               THE WITNESS:  Okay, that's two.

23               MR. WINCHESTER:  Well, maybe more, maybe a  
24 few, how's that?

25               THE WITNESS:  Okay.



REDIRECT EXAMINATION

BY MR. WINCHESTER:

Q. How many computers were at Jim's house?

A. One.

Q. Was there ever a time when it was broken?

A. No.

Q. And is that the computer that you played  
Scramble on?

A. Yeah.

Q. You told Mr. Pendleton about a time when Jim  
touched you with the vibrator, I think, in your  
private place, right?

A. Yeah.

Q. Did he ever touch you with his hand in your  
private place?

A. Yeah.

Q. What did he do with his hand?

A. He would rub it around.

Q. (Inaudible).

A. He would rub it around.

Q. Did you ever see him touch AK with his hand  
in her private place?

A. Yeah.

Q. What did he do to AK with his hand?

A. Rubbed it around.

1 Q. Did you have your clothes on or your clothes  
2 off when he touched you with his hand?

3 A. Off.

4 Q. Did AK have her clothes on or off?

5 A. Off.

6 Q. You also told Mr. Pendleton about a time  
7 when AK sucked Jim's private part; is that right?

8 A. Yeah.

9 Q. Did you see her do that?

10 A. Yeah.

11 Q. Pardon me?

12 A. Yeah.

13 Q. Did she (inaudible)?

14 A. Uh-huh.

15 Q. What room did that happen in?

16 A. Jim's room.

17 Q. Who was there?

18 A. Tansie and Jim.

19 Q. Was AK there?

20 A. Yeah.

21 Q. Were you there?

22 A. Yeah.

23 Q. Did Jim say anything when that was  
24 happening?

25 A. No.

1 Q. Did he say anything when it was over?

2 A. Yeah.

3 Q. What did he say?

4 A. To go home.

5 Q. I'm almost done.

6 A. Okay. It's already been a few.

7 Q. What's that?

8 A. It's already been a few questions.

9 THE COURT: It's already been a few  
10 questions, Mr. Winchester.

11 THE WITNESS: It's already been 19, I'm  
12 counting.

13 Q. BY MR. WINCHESTER: BR, how many different  
14 days did Jim touch you in the private part with a  
15 vibrator?

16 A. Only three.

17 Q. Three?

18 A. Yeah.

19 Q. How many times did Jim touch you in the  
20 private part with his hand?

21 A. About 10.

22 Q. Did you ever see Jim touch AK's private part  
23 with his private part?

24 A. No.

25 Q. Did he ever touch your private--

1 THE COURT: Have her pick the microphone up,  
2 okay? It might not have heard what she said, then.  
3 She said no to that last question; is that right?

4 THE WITNESS: Yeah.

5 THE COURT: The microphone had dropped.

6 Q. BY MR. WINCHESTER: Did Jim ever touch your  
7 private part with his private part?

8 A. No.

9 MR. WINCHESTER: Okay, thank you very much.

10 THE COURT: Mr. Pendleton?

11 MR. PENDLETON: Just a couple questions.

12 RE CROSS EXAMINATION

13 BY MR. PENDLETON:

14 Q. Did you say Jim touched you 10 times with  
15 his hand, 10 different days in your private part?

16 A. He did it five one day and five another day.

17 Q. So he touched you five times one day?

18 A. Yeah.

19 Q. And five times on another day?

20 A. Yeah.

21 Q. Were those the same days that you touched  
22 you with the vibrator, too?

23 A. Yeah,

24 Q. Pardon me?

25 A. Yeah.



1 buttocks, and her breasts.)

2 THE COURT: Okay. Did you see that, counsel? The  
3 record may reflect that she pointed to her front crotch and  
4 then back at her bottom, and also up at her breasts; is that  
5 correct?

6 THE WITNESS: Yes.

7 THE COURT: All right. Thank you.

8 Q BY MR. WINCHESTER: Thank you, Brandy. You can  
9 sit down again. And I'll ask you to speak really loud,  
10 okay, because if not, we're going to have to go get that  
11 microphone and have you hold it like we did last time.

12 All right. Was anyone else ever there when Mr.  
13 Johnston touched you in those private parts?

14 THE WITNESS: Yes.

15 Q. Who was there?

16 A. Tansy.

17 Q. Anyone else, besides Tansy?

18 A. And Alli.

19 Q. And Alli? Was Alli there every time he touched  
20 you there?

21 A. No.

22 Q. Was she there some of the time?

23 A. Yes.

24 Q. Was Tansy there every time he touched you in those  
25 places?

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A. No.

Q. Was she there some of the time?

A. Yes.

Q. Was Tommy ever there?

A. No.

Q. How about Gwen? Do you know Gwen?

A. Yes.

Q. Was Gwen ever there?

A. No.

Q. What room were you in when he touched you in those places?

A. His room.

Q. His room? Would that be a bedroom? or a kitchen? Or what? What kind of room?

A. A bedroom.

Q. A bedroom. Lets see. I think you told us sometimes you slept over at Mr. Johnston's house.

A. Yes.

Q. Where did you sleep when you slept over there?

A. Sometimes in Gwen's old room and sometimes in his room.

Q. Did you hear that counsel?

MR. BLAKELY: I did not hear.

THE COURT: Sometimes in Gwen's room and sometimes in his room.

1 Q BY MR. WINCHESTER: When you slept in his room  
2 Brandy--and speak up for us, if you will--did you sleep  
3 his bed?

4 THE WITNESS: Sometimes.

5 Q. And when you weren't sleeping on his bed in hi  
6 room, where else did you sleep in his room?

7 A. On the floor.

8 Q. Did you ever see Mr. Johnston touch anyone els  
9 their private places?

10 A. Yes.

11 Q. Who did you see him touch?

12 A. Alli.

13 Q. Alli? Anyone else?

14 A. No.

15 Q. Okay. Did Mr. Johnston ever ask you to do  
16 anything that you thought might not be a good idea?

17 A. Yes.

18 Q. What did he ask you to do?

19 A. Not to tell.

20 Q. Okay. He asked you not to tell. Did he ever  
21 you to climb a tree and hang from your head?

22 A. No.

23 Q. Did he ever ask you to eat popsicles backward

24 A. No.

25 Q. Did he ever ask you to take something off?



1 A. Yes.

2 Q. What did he ask you to take off?

3 A. My clothes.

4 Q. Did you do that?

5 A. No.

6 Q. When he touched you in these places that you have  
7 shown to Judge, did you have your clothes on or your clothes  
8 off?

9 A. On.

10 Q. Always on?

11 A. Only sometimes.

12 Q. All right. Sometimes on. How about sometimes  
13 off?

14 A. Yes.

15 Q. Did you have panties on?

16 A. Yes.

17 Q. All the time?

18 A. No.

19 Q. Brandy, I'm gonna show you a picture. We've  
20 already put a little label on it and called it STATE'S  
21 EXHIBIT NO. 1. It's got a little pink label on it. I'm  
22 gonna show you this picture and ask you if you've ever seen  
23 any of these things in here before?

24 A. Yes.

25 Q. Where did you see these things?

1 A. At Jim'S house.

2 Q. All of them?

3 A. No.

4 Q. How many?

5 A. One.

6 Q. Can you point to us which one you saw at Jim's  
7 house?

8 A. That one.

9 (Indicated)

10 MR. WINCHESTER: May the record again reflect  
11 she's identified the second one from the left in STATE'S  
12 EXHIBIT NO. 1.

13 THE COURT: The record may so show.

14 Q BY MR. WINCHESTER: Did you see all four of these  
15 things somewhere?

16 THE WITNESS: No.

17 Q. Did you ever go with Mr. Fisher to the Kanab  
18 Police Office and look at them?

19 A. Yeah.

20 Q. Does that look like what you saw?

21 A. Yes.

22 Q. Thank you. Now this thing that you just showed us  
23 in the picture, had you ever seen that thing in Mr.  
24 Johnston's house?

25 A. Yes.

1 Q. What do we want to call that thing today?

2 A. A massager.

3 Q. A massager. Did Mr. Johnston ever touch you with  
4 the massager?

5 A. Yes.

6 Q. Where did he touch you with the massager?

7 A. In my private parts.

8 Q. Did you ever see him touch anyone else with the  
9 massager?

10 A. Yes.

11 Q. Who?

12 A. Alli.

13 Q. Anyone, besides Alli?

14 A. No.

15 MR. WINCHESTER: Thank you very much. No further  
16 questions.

17 THE COURT: Cross examination, Mr. Blakely.

18 CROSS EXAMINATION

19 BY MR. BLAKELY: Thank you, Your Honor.

20 Q. Alli, my name is Tom Blakely. I'm the--

21 A. I'm not Alli.

22 Q. I'm here representing Mr. Johnston?

23 A. I'm not Alli.

24 Q. I'm sorry. You're Brandy, aren't you?

25 A. Yes.

1           Q.    I apologize, Brandy.  I just need to ask you some  
2 questions, based upon what Mr. Winchester asked you; okay?

3           A.    Okay.

4           Q.    All right.  Can you look at me?

5                       (Shook her head, no.)

6           Q.    No?  Okay.  Mr. Winchester asked you who lived  
7 over at Mr. Johnston; right?

8           A.    Yes.

9           Q.    And you said that Tansy and Tommy lived there.

10          A.    Yes.

11          Q.    Were there ever anybody else there?

12          A.    Yes.

13          Q.    Who else would be there?

14          A.    Gwen sometimes lived there.

15          Q.    Okay.  Again, Brandy, I'm gonna ask you to speak  
16 up.  I'm a little bit hard of hearing--

17          A.    Okay.

18          Q.    --and it's difficult for me to hear you.  And we  
19 need to be able to hear you; okay?

20          A.    Okay.

21          Q.    All right.  Now you said that Gwen was there  
22 sometimes?

23          A.    Yes.

24          Q.    Do you know who Gwen is?

25          A.    Yes.

1 Q. Who is she?

2 A. Tansy's sister.

3 Q. Okay. Would there ever be anybody else there?

4 A. Only Alli sometimes.

5 Q. Okay. Do you remember a person named Heather?

6 A. Yes.

7 Q. I can't hear you, Brandy.

8 A. Yes.

9 Q. Okay. Would Heather be there sometimes?

10 A. No.

11 Q. Heather was never there?

12 A. No.

13 Q. Did you ever get to meet Tansy's mother?

14 A. Yes.

15 Q. What's Tansy's mother's name?

16 A. Linnan.

17 Q. Was Linnan there sometimes?

18 A. No.

19 Q. She was never there at the house at Mr. Johnston's

20 house?

21 A. Not when it happened to me.

22 Q. Was she there during times that you would visit,

23 though?

24 A. Yes.

25 Q. Okay. Was Heather ever there when you were

1 visiting?

2 A. Yes.

3 Q. Okay. Do you know how many times you went over to  
4 visit Mr. Johnston?

5 A. No.

6 Q. Would it be lots and lots of times?

7 A. Yes.

8 Q. Do you remember the first time that you went over  
9 to Mr. Johnston's home?

10 A. Yes.

11 Q. How long ago was that?

12 A. A very long time ago.

13 Q. Okay. Do you remember the last time that you went  
14 over to Mr. Johnston's home?

15 A. Yeah.

16 Q. Do you know what time of year it was?

17 A. No.

18 Q. Could it have been summer?

19 A. Yeah.

20 Q. I'm sorry; what?

21 A. Yeah.

22 Q. So was it summer?

23 A. I'm not for sure.

24 Q. Okay. Was it hot outside--

25 A. Yes.

1 Q. --the last time that you went there?

2 A. Yes.

3 Q. And were people wearing shorts?

4 A. Yes.

5 Q. Were you wearing shorts?

6 A. Yes.

7 Q. Did you ever meet Tansy's friend Dianna?

8 A. Yes.

9 Q. So she was there, too, huh?

10 A. Yes.

11 Q. Did you ever meet Tansy's sister, Lindsey?

12 A. No.

13 Q. How about Tansy's sister Bonnie?

14 A. Yes.

15 Q. Would she be over at Mr. Johnston's home?

16 A. Yes.

17 Q. When you would go over to Mr. Johnston's home to

18 play, would there often be a lot of people there?

19 A. Only sometimes.

20 Q. Only sometimes. I was a little bit confused when

21 Mr. Winchester was talking to you. Um, he asked you if Mr.

22 Johnston ever asked you to take off something.

23 A. Yes.

24 Q. You said that Mr. Johnston would ask you to take

25 off your clothes?

1           A.    Yes.

2           Q.    And then you said--is that right?

3           A.    Yes.

4           Q.    Okay.  And then you said that you didn't take off  
5 your clothes; is that right?

6           A.    Yes.

7           Q.    But then, a few minutes later, you said that  
8 sometimes when Mr. Johnston would touch you, you didn't have  
9 any clothes on.

10          A.    I know.

11          Q.    Is there a bit of a difference there?

12          A.    Yes.

13          Q.    Okay.  Why is there that difference?

14          A.    I don't know.

15          Q.    Did you ever play in Mr. Johnston's bedroom?

16          A.    Yes.

17          Q.    Would you play with Alli?

18          A.    Yes.

19          Q.    Would you play with Tansy?

20          A.    Yes.

21          Q.    Would you be in Mr. Johnston's bedroom on times  
22 that nothing bad ever happened to you?

23          A.    Yes.

24          Q.    Would you play with the computer in there?

25          A.    Yes.



1 Q. Did you go in there a lot?

2 A. Yes.

3 Q. How many times did Mr. Johnston touch you?

4 A. I'm not for sure.

5 Q. How many times had you talked to other people  
6 about what you'd be saying here today?

7 A. About 20.

8 THE COURT: How many?

9 THE WITNESS: 20.

10 THE COURT: About 20 times.

11 THE WITNESS: Yes.

12 Q BY MR. BLAKELY: Do you remember meeting with a  
13 man here in Cedar City?

14 THE WITNESS: No.

15 Q. Do you remember a Mr. Soderquist?

16 A. Yes.

17 Q. Did you meet with Mr. Soderquist?

18 A. Yes.

19 Q. Where did you meet with Mr. Soderquist?

20 A. Here in Kanab.

21 Q. Here in Kanab. Was there a recording made of your  
22 conversation with him?

23 A. Yes.

24 Q. Was it on a tape recorder or a video camera?

camera and a tape recorder.

1 Q. Do you remember when you talked to Mr. Soderquist  
2 and he would ask you questions?

3 A. Yes.

4 Q. And when he asked you questions, did he tell you  
5 he just wanted you to tell the truth?

6 A. Yes.

7 Q. And were the things that you told him the truth?

8 A. Yes.

9 Q. Did you say that a white piece of paper was black?

10 A. No.

11 Q. Okay. Just wanted to make sure you weren't just  
12 saying yes all along. Did you ever tell that man that Mr.  
13 Johnston touched you two times?

14 A. I don't remember.

15 Q. And then do you remember telling him that he  
16 touched you three times?

17 A. I don't remember.

18 Q. Would that have been a lie?

19 A. I don't know.

20 Q. Did you ever lie to Mr. Soderquist when he asked  
21 you questions?

22 A. No.

23 Q. Have you lied here today?

24 A. No.

25 Q. How did it make you feel when Mr. Johnston would

1 touch up in a place that he wasn't supposed to?

2 A. It would make me feel funny and scared.

3 Q. Now there's funny good and funny bad and I guess

4 when you watch cartoons on TV that can make you funny good,

5 huh? Make you feel funny good?

6 A. Yes.

7 Q. How would this make you feel funny?

8 A. Funny bad.

9 Q. Funny bad. And you said it made you feel scared,

10 too, huh?

11 A. Yes.

12 Q. Why were you scared?

13 A. Cause he hurt me.

14 Q. Because--I'm sorry. I didn't hear you.

15 A. Cause he hurt me.

16 Q. You hurt; he hurt you?

17 A. Yes.

18 Q. Where did he hurt you?

19 A. In my private part.

20 Q. Did Mr. Johnston ever threaten you?

21 A. Yes.

22 Q. What did Mr. Johnston say?

23 A. He said if I told, then he would kill me.

24 Q. Was Alli there when he said that?

25 A. No.

1 Q. Was Tansy there when he said that?

2 A. When he said that, yes.

3 Q. So Tansy heard that?

4 A. Yes.

5 Q. After he said that, you continued to come back

6 though, didn't you?

7 A. Yes.

8 Q. And you continued to come back there and play?

9 A. Yes.

10 Q. Weren't you scared to go back there?

11 A. No.

12 Q. In fact, when you went back there to play, you

13 would play with Tansy, wouldn't you?

14 A. Yes.

15 Q. And you'd play with Gwen?

16 A. Yes.

17 Q. And when you'd go back, you'd ask Mr. Johnson for

18 some ice cream, wouldn't you,--?

19 A. Yes.

20 Q. --even though he scared you?

21 A. Yes.

22 Q. Even though he did something very bad to you?

23 A. Yes.

24 Q. Why would you still go back, after he would do

25 something bad?

1           A.    I don't know.

2           Q.    And then he did something bad after the first  
3 time, didn't he?

4           A.    Yes.

5           Q.    And you still went back again didn't you?

6           A.    Yes.

7           Q.    And played there?

8           A.    Yes.

9           Q.    During the times that you would go there, was  
10 there anybody else who lived there all the time, except for  
11 Tansy, other than Tansy?

12          A.    No.

13          Q.    Didn't Linnan have a room there then?

14          A.    No.

15          Q.    Did Tommy have a room there then?

16          A.    Yeah, but he wasn't there all the time.

17          Q.    Okay. And let's again kind of take a look at the  
18 last time that you went over there. And I believe you said  
19 that it was during the summer.

20          A.    Yes.

21          Q.    You're sure of that?

22          A.    Yes.

23          Q.    You're as sure of that as you are of everything  
24 else you've told us here today?

25          A.    Yes!

1           A.    He's in a wheelchair.  He has brown hair--or  
2    blond.  I can't remember.  I really do think it's brown.  
3    And that's all I can remember.

4           Q.    Did you ever sleep over at Mr. Johnston's house?

5           A.    Yes.

6           Q.    How many times, do you think?

7           A.    Ooh, I don't know.  I can't--

8           Q.    Would it be a hundred times?

9           A.    No.

10          Q.    50 times?

11          A.    No.

12          Q.    One time?

13          A.    No.

14          Q.    10 times?

15          A.    Maybe.  Not sure.

16          Q.    So maybe 10?  Sometimes did Tansy tend you while  
17   you were there?

18          A.    Yeah, once in a while.

19          Q.    Did you ever have any contact with Tommy?  Did you  
20   do things with Tommy?

21          A.    Well, yeah.  We used to go ride the wheelchair  
22   together and we'd go for walks.

23          Q.    Okay.  Now sometimes did you go to Mr. Johnston's  
24   house when Brandy was not there?

25          A.    Yes.

1 Q. And sometimes did you go to Mr. Johnston's house  
2 when Brandy was there?

3 A. Yes.

4 Q. Mr. Johnston ever touch you?

5 A. Yes.

6 Q. Where did he touch you?

7 A. Um it's hard to say.

8 Q. You know that you've been talked to by some other  
9 grownups about this before; right?

10 A. Um-hm.

11 Q. What word did you use for that private part of  
12 your body?

13 A. I really don't remember.

14 Q. Do you have a word that you want to use for that  
15 today?

16 (Gestured)

17 What would you like to call it?

18 (Gestured again.)

19 THE COURT: Let me ask you this. Do you know what  
20 these are on a girl right here?

21 (Indicated)

22 What do we call those?

23 (Indicated)

24 THE WITNESS: Um-hm.

25 Q BY MR. WINCHESTER: What do we call those? It's

1       okay. You can say it.

2           A.    Do I have to?

3           Q.    Yes.

4           A.    Hm!

5           THE COURT: He can show you. If you feel more  
6 comfortable, you show us, and I'll supply the word; okay?

7           THE WITNESS: Okay.

8           THE COURT: You can stand up and you show them.  
9 You show us, if that's easier for you.

10          Q     BY MR. WINCHESTER: Would you like to do it that  
11 way?

12                   (Witness shook her head negative and  
13 covered her face with her hand.)

14          Alli, let me ask you about this part here.

15                   (Indicated chest area)

16 Did Mr. Johnston ever touch you up here on your chest or  
17 your breast?

18          THE WITNESS: Um-hm.

19          Q.    Did he touch you on what I'm gonna call my behind?  
20 On your behind?

21          A.    Um-hm.

22          Q.    And did he touch you down here.

23                   (Indicated the front of the body private  
24 area.)

25          A.    Um-hm.



1                   MR. WINCHESTER: May the record reflect, Judge,  
2                   that I've just pointed out three areas that I would call the  
3                   breasts, the buttocks, and the private parts.

4                   THE COURT: It may so reflect.

5                   Q     BY MR. WINCHESTER: Alli, was anyone else there,  
6                   besides you and Mr. Johnston when he touched you in those  
7                   places?

8                   A.     Tansy.

9                   Q.     Tansy was there?

10                  A.     Yes.

11                  Q.     Was Brandy there?

12                  A.     No.

13                  Q.     Did Mr. Johnston ever use anything, besides his  
14                  hands, to touch you?

15                  A.     Um-hm.

16                  Q.     What did he use Alli?

17                  A.     A backrubber.

18                  Q.     Can you tell us what that looks like?

19                  A.     It has a little ball on the top of it and, hm--

20                                 (Witness cried)

21                  Q.     Is it big and square?

22                                 (Witness shook her head, negative.)

23                  Q.     Would it be bigger than my pen?

24                                 (Indicated)

25                  A.     Um-hm.

1 Q. How much bigger?

2 A. A lot bigger.

3 Q. A lot bigger? I'm gonna hold my hands out; this  
4 big?

5 (Indicated)

6 A. No.

7 Q. May the record reflect three feet?

8 A. Um-um.

9 Q. How about two feet?

10 (Indicated)

11 A. Um-um.

12 Q. How about one foot?

13 (Indicated)

14 A. Um-um.

15 Q. Smaller, or bigger?

16 A. Smaller.

17 Q. Okay. How about six inches?

18 (Indicated)

19 A. Um-um.

20 Q. Smaller, or bigger?

21 A. A little bit smaller.

22 Q. Okay. Is there anything that's hooked onto this  
23 backrubber?

24 A. Um-um.

25 Q. Does it have batteries in it?

1           A.    Um-hm.

2           Q.    Are you sure?

3           A.    Um-hm, I think.

4           Q.    Does it make any kind of a noise?

5           A.    It makes a humming noise.

6           Q.    Alli, where did Mr. Johnston touch you with the  
7 backrubber? Do you want to show the Judge where it was  
8 maybe?

9                       (Witness shook her head, no)

10          Alli, was it up here on your shoulder?

11                       (Indicated)

12          A.    No.

13          Q.    Was it here on your breast?

14                       (Indicated)

15          A.    Um-hm.

16          Q.    Did he touch you with the backrubber here on your  
17 behind?

18                       (Indicated)

19          A.    Um-hm.

20          Q.    What about here on the private part?

21                       (Indicated)

22          A.    Um-hm.

23          Q.    Was Tansy there?

24                       (Witness nodded affirmative.)

25                       MR. WINCHESTER: May the record reflect she's

1        nodded in the affirmative?

2                THE COURT:    It may so reflect.

3                Q        BY MR. WINCHESTER:    Was Brandy there when that  
4        happened?

5                THE WITNESS:    No.

6                Q.        Alli, I just have a couple of more questions for  
7        you; okay?    We're almost done here and then Mr. Blakely can  
8        ask you some questions.

9                Did Mr. Johnston ever ask you to do anything with  
10        in your mouth?

11              A.        Yes.

12              Q.        What did he ask you to do?

13                              (Witness cried.)

14              Did he ask you to put your mouth somewhere on his  
15        body?

16              A.        Um-hm.

17              Q.        Can you tell us what part of his body?    Was it his  
18        buttocks?    His rear end?

19              A.        No.

20              Q.        Was it his arms?

21                              (Witness shook her head, no.)

22              THE COURT:    She shakes her head in the negative

23              Q        BY MR. WINCHESTER:    Was it his private parts?

24              THE WITNESS:    Um-hm.

25                              (Witness nodded her head, affirmative.)

1 MR. WINCHESTER: May the record reflect an  
2 affirmative shake of the head?

3 THE COURT: It may so reflect.

4 MR. WINCHESTER: Thank you, Alli. I don't have  
5 any more questions.

6 THE COURT: We'll take just a second, Alli. And  
7 there's a Kleenex right there, if you'd like one.

8 (Witness responded)

9 THE COURT: Now we can take just a minute and when  
10 you're ready for some more questions, you tell me.

11 THE WITNESS: I'm ready.

12 THE COURT: I'll tell you, you don't need to feel  
13 embarrassed to answer the questions here. This is the place  
14 for you to tell the truth.

15 THE WITNESS: I know.

16 THE COURT: And I just want you to answer each  
17 question as best you can.

18 THE WITNESS: Okay.

19 THE COURT: Okay?

20 THE WITNESS: Okay.

21 THE COURT: Mr. Breakly.

22 CROSS EXAMINATION

23 BY MR. BLAKELY:

24 Q. Alli, my name is Tom Blakely and I'm the attorney  
25 here for Mr. Johnston. And we're just here to try and find

1 out what really happened. Okay, Alli?

2 A. Okay.

3 Q. All right. Do you feel you can talk to me now?

4 (Witness nodded her head, affirmative.)

5 Do you recall what time of year it was when you  
6 first met Mr. Johnston?

7 A. No.

8 Q. Was it while you were in school?

9 A. Um-hm.

10 Q. Um, was it before Christmas time?

11 A. Yes.

12 Q. Okay. When you say you went over to Mr.  
13 Johnston's house quite a bit,--

14 A. Um-hm.

15 Q. --why would you go over to Mr. Johnston's house?

16 A. To visit him and say hello.

17 Q. Okay.

18 A. And Brandy would sometimes go over there with me.

19 Q. How many people have you talked to about what  
20 you're telling us here today?

21 A. I think three or four.

22 Q. Do you remember their names?

23 A. No.

24 Q. Can you tell me where you talked to them?

25 A. I talked to one in Kanab, one in Cedar City, and I

1 think another one in Cedar--I mean St. George.

2 Q. Okay. Have you spoken to Mr. Winchester about  
3 this case?

4 A. I really don't remember.

5 Q. Could you have?

6 A. Maybe.

7 Q. Have you talked to your grandparents about this  
8 case?

9 A. Um-hm.

10 Q. Who did you talk to about what your answers would  
11 be today?

12 A. My grandmother.

13 Q. Did your grandmother suggest what your answers  
14 should be?

15 A. No.

16 Q. These are just from your own memory?

17 A. Um-hm.

18 Q. Not from anybody else?

19 A. Yes.

20 Q. You said there were a couple of other people over  
21 at Mr. Johnston's house, and there was Tansy and there was  
22 Tommy?

23 A. And there was Heather.

24 Q. And there was Heather. Was Heather related to  
25 anybody?

1           A.    There, I don't think she was.

2           Q.    Could she have been related to Tansy?

3           A.    No.  I know that she wasn't.

4           Q.    Okay.  Were you friends with Tansy?

5           A.    Um-hm.

6           Q.    And friends with Tommy?

7           A.    Um-hm.

8           Q.    And with Heather?

9           A.    Um-hm.

10          Q.    You talked about being touched by Mr. Johnston and  
11 I know this is the kind of thing that makes you cry.  Do you  
12 remember when Mr. Johnston touched you?

13          A.    What time of day?

14          Q.    What time of year?

15          A.    What time of year, no.

16          Q.    Could it have been in the summer?

17          A.    I'm really not sure.

18          Q.    Or in the winter?

19          A.    I'm really not sure.

20          Q.    So it could have been any time like that.

21                       (Witness nodded affirmative.)

22          THE COURT:  You have to answer out loud.  See,  
23 he's taking down what you say and if you just go nod, that's  
24 no sound.  So you say out loud yes or no, and he can write  
25 it down; okay?



1 THE WITNESS: Okay.

2 Q BY MR. BLAKELY: I'm gonna ask you a really hard  
3 question and I want you to think hard about it before you  
4 answer; okay? The times that you say Mr. Johnston touched  
5 you in your bad places, how did that make you feel?

6 THE WITNESS: Sad.

7 Q. Why did it make you sad?

8 A. Cause I knew it was bad.

9 Q. Did you say, "No."

10 (Witness shook her head, negative.)

11 A. I was scared.

12 Q. What were you scared of?

13 A. Him.

14 Q. Did Mr. Johnston ever say that he would do  
15 something that would make you scared?

16 A. Um-um.

17 Q. He never did?

18 A. Um-um.

19 Q. Did he ever do anything that would make you  
20 scared?

21 A. Um-hm.

22 Q. What did he do?

23 A. One day he got really mad at Tansy and he got all  
24 the glasses and put them in the sink and he smashed them  
25 all.

1 Q. Okay.

2 A. And he would scream at Tansy.

3 Q. Okay. Now was that because of something that  
4 Tansy did?

5 A. I think.

6 Q. Was he mad at you then?

7 A. I really don't know.

8 Q. Okay. So when he would touch you and made you sad  
9 and made you kind of scared, why did you then go back to Mr.  
10 Johnston's house after he touched you?

11 A. I do not know.

12 Q. In fact, you would ask your grandparents if you  
13 could go over there, wouldn't you?

14 A. Um-hm.

15 Q. You wanted to go over there, didn't you?

16 A. Cause we'd always eat ice cream and stuff.

17 (Shook her head, affirmative.)

18 Q. Even after you say Mr. Johnston touched you, you  
19 still wanted to go back to his house?

20 A. To eat ice cream, yeah.

21 Q. And it was Mr. Johnston who gave you the ice cream  
22 right?

23 A. Um-hm. I only thought it was going to happen once  
24 and that it was going to quit.

25 Q. Did it happen more than once?

1 A. Yes.

2 (Witness cried.)

3 Q. Do you remember--do you remember how many times it  
4 happened?

5 A. No.

6 Q. Did it happen lots and lots of times?

7 A. I'm not so sure. I think grandma knows.

8 Q. Okay. Grandma's not testifying today though--

9 A. I know.

10 Q. --and it didn't happen to her, did it? But after  
11 each time it would happen, you'd still want to go back to  
12 Mr. Johnston's house, wouldn't you?

13 A. Um-hm.

14 Q. To play with Tansy?

15 A. Yeah. We'd jump rope and eat ice cream and watch  
16 TV.

17 Q. Who were you staying with when you--where would  
18 you sleep, usually?

19 A. On the floor in their bedroom.

20 Q. Let me back up. If you weren't at Mr. Johnston's  
21 house, where would you sleep, normally?

22 A. At my house.

23 Q. And who was there at your house?

24 A. My sister and I and my mom.

25 Q. Your sister was there and you were there and your

1 mom was there?

2 A. At my house, yeah.

3 Q. And was your grandma there, too?

4 A. No. She lived close buy, and we'd always go over  
5 there when mom would work.

6 Q. Is there a reason you didn't tell your sister  
7 about this?

8 A. No.

9 Q. You knew your sister wouldn't get mad, would she?

10 A. Yeah. I knew she wouldn't get mad at me. She'd  
11 be too--I'd be too scared I'd get in trouble.

12 Q. Now you knew you hadn't done anything wrong, do  
13 you?

14 A. No. Yeah.

15 Q. Is there a reason you didn't tell your mom?

16 A. Um-hm.

17 Q. Fine.

18 A. I thought that she would go ballistic.

19 Q. What do you mean by ballistic?

20 A. Crazy. She'd go over there and scream at Jim.

21 Q. Okay.

22 A. And she'd get really mad.

23 Q. And is there a reason that you didn't tell your  
24 grandma?

25 A. Yes. Because I was scared.

1 Q. Okay. Let's talk a little bit about the  
2 backrubber that Mr. Winchester was asking you about; okay?  
3 Do you need a minute? Are you doing okay?

4 A. I'm fine.

5 Q. Okay. Can you, um, tell me what it looked like?

6 A. Oh, it had a handle on it and it was round on the  
7 top.

8 Q. Okay. How long was that handle?

9 A. This long, I think.

10 (Indicated)

11 MR. BLAKELY: I'm guessing there about six inches,  
12 Your Honor.

13 THE COURT: Well, I'd say more like eight inches.

14 THE COURT: And how big was the other part of it?  
15 There was a handle and there was another part.

16 THE WITNESS: It was about--

17 (Indicated)

18 --like this, round.

19 (Indicated)

20 Q. Can you hold your hands up so the jury can see,  
21 too?

22 (Witness responded.)

23 And so there was a handle attached to it?

24 A. Um-hm.

25 Q. Had you ever seen anything like that before at

1 other houses?

2 A. No.

3 THE COURT: I need the record to show that the  
4 witness has held her two thumbs and her two index fingers.  
5 Would you do that again so we can estimate. How would it  
6 compare in size to your fist? Double up your fist.

7 THE WITNESS: There?

8 (Indicated)

9 This?

10 (Indicated)

11 THE COURT: How would it compare in size to that?  
12 Bigger? Or smaller?

13 THE WITNESS: I couldn't--like a little bit like  
14 this much bigger.

15 (Indicated)

16 Q. Just an 8th-of-an-inch or a quarter-inch bigger  
17 than your doubled up fist?

18 A. Um-hm.

19 THE COURT: All right.

20 MR. BLAKELY: If I could have just a moment, Your  
21 Honor.

22 THE COURT: You may.

23 (Off-record consultation with defendant,  
24 during which witness started to cry.)

25 Q BY MR. BLAKELY: Do you recall a person over at

1 Mr. Johnston's place called Gwen?

2 THE WITNESS: Oh, yeah. I forgot about Gwen.

3 Q. Okay. Who is Gwen?

4 A. Oh, that's Tansy's sister?

5 Q. Okay. Was she nice to you?

6 A. Um-hm.

7 Q. She played with you?

8 A. Yeah. We would go outside and play basketball and  
9 jump rope.

10 Q. Now you talked about the times that, um, that  
11 you've talked to other people.

12 A. Um-hm.

13 Q. You said you talked to a man here in Kanab and you  
14 talked to a woman in Cedar City and you talked to another  
15 man up in St. George; would that be right?

16 A. Um-hm.

17 Q. Do you remember which of those interviews was  
18 first?

19 A. The one that I talked to, Mr. Fisher.

20 Q. Okay. Now do you remember when you talked to the  
21 man in Kanab, did he tell you much the same thing as the  
22 Judge, to tell the truth?

23 A. Yes. But I was too scared to tell everything.

24 Q. Okay. Now at that time was Mr. Johnston in jail?

25 A. I really don't know at all.

1 Q. Had anybody threatened you at all?

2 A. No.

3 Q. But you said different things to him than you did  
4 to other people, didn't ya?

5 A. The lady in Cedar City, I told everything to her.

6 Q. Okay. And tell us again, what was the reason you  
7 didn't tell everything to the first man?

8 A. I was very very scared, first.

9 Q. Did you tell him that?

10 (Shook her head, no.)

11 A. No.

12 Q. You were scared when you went there, though?

13 A. I was scared, at the very very first, to tell all  
14 of everything.

15 Q. But you told some things, huh?

16 A. Um-hm.

17 Q. But not others?

18 A. Um-hm.

19 Q. Why were you scared to tell the others?

20 A. I was afraid that my mother would still go  
21 ballistic.

22 Q. Okay. Had she gone ballistic when you told her?

23 A. No. She didn't go ballistic.

24 Q. But you thought she would, if you told her?

25 A. Um-hm.



1           Q.    Do you remember telling the man in St. George that  
2   Mr. Johnston would chase you around with a massager?

3           A.    Yes.

4           Q.    Do you know when that happened?

5           A.    No.

6           Q.    You don't know what time of year?

7           A.    No.

8           Q.    What would he do?

9           A.    He would just laugh and giggle.

10          Q.    And he would chase you around with it?  Would he  
11   ever touch you with it?

12          A.    Yes.

13          Q.    When he was chasing you with it, would it make a  
14   noise?

15          A.    Yes.

16          Q.    What kind of noise would it make?

17          A.    A humming noise.

18          Q.    Can you make that noise?

19          A.    No.

20          Q.    You can't make the noise like the machine?

21          A.    I don't think I can.

22          Q.    Okay.  Was Brandy over there, um, when he would  
23   chase you around?

24          A.    Once.  Oh, I forgot to--once it happened when he  
25   chased me around.  That was one time and Brandy was there.

1 Q. Okay. Brandy was there when that happened?

2 A. Yeah. I forgot about it.

3 Q. Okay. If you talk about things that you remember  
4 at Mr. Johnston's home, things that happened when Brandy was  
5 there and if Brandy told it in a different way, do you think  
6 maybe she's not remembering it right?

7 A. I don't know.

8 Q. You're telling us how you remember it?

9 (Witness nodded her head affirmative.)

10 And this is the truth; right?

11 A. Yes.

12 Q. Okay. Have you ever told a lie?

13 A. Yeah.

14 Q. What happens when you tell a lie?

15 A. You get in trouble.

16 Q. If this were a lie, you'd get in big trouble; huh?

17 A. Uh-huh.

18 MR. BLAKELY: If I could have just a moment, Your  
19 Honor.

20 THE COURT: You may.

21 (Off-record consultation with defendant.)

22 Q BY MR. BLAKELY: After people found out about  
23 what happened at Mr. Johnston's home, were you ever examined  
24 by a doctor?

25 THE WITNESS: No.

**CERTIFICATE OF MAILING**

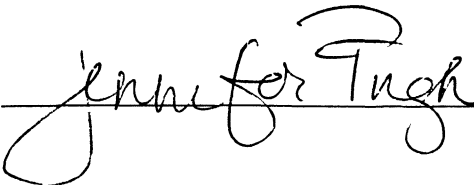
I hereby certify that on the 14 day of May, 2002 a true and correct copy of the within and foregoing **ADDENDUM** was mailed, first-class postage prepaid, to the following:

Utah Court of Appeals  
450 S. State  
Salt Lake City, UT 84114

Christine Soltis  
Assistant Attorney General  
160 East 300 South, Suite 600  
P.O. Box 140854  
Salt Lake City, Utah 84114-0854

James Johnston  
Central Utah Correctional Facility  
P.O. Box 550  
Gunnison, Utah 84634-0550

John Hummel  
165 North 100 East, Suite 5  
St. George, Utah 84770

  
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